

By Sapalim

S.B. No. 512

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of certain administrative penalties by the State Board of Polygraph Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Polygraph Examiners Act (Article 4413(29cc), Vernon's Texas Civil Statutes), is amended by adding Section 22A to read as follows:

Sec. 22A. ADMINISTRATIVE PENALTY. (a) If a person violates this Act or a rule adopted under this Act, the board may assess a civil penalty against that person as provided by this section.

(b) The board may assess the civil penalty in an amount not to exceed \$1,000. In determining the amount of the penalty, the board shall consider the seriousness of the violation.

(c) If, after examination of a possible violation and the facts relating to that possible violation, the board concludes that a violation has occurred, the board shall issue a preliminary report that states the facts on which the conclusion is based, the fact that a civil penalty is to be imposed, and the amount to be assessed. Not later than the 10th day after the day on which the board issues the preliminary report, the board shall send a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.

(d) Not later than the 20th day after the day on which the

1 report is sent, the person charged shall either make a written
2 request for a hearing or remit the amount of the civil penalty to
3 the board. Failure either to request a hearing or to remit the
4 amount of the civil penalty within the time provided by this
5 subsection results in a waiver of a right to a hearing under this
6 Act. If the person charged requests a hearing, the hearing shall
7 be conducted in the manner provided by Section 22 of this Act. If
8 it is determined after hearing that the person has committed the
9 alleged violation, the board shall give written notice to the
10 person of the findings established by the hearing and the amount of
11 the penalty, and shall enter an order requiring the person to pay
12 the penalty.

13 (e) Not later than the 30th day after the day on which the
14 notice is received, the person charged shall pay the civil penalty
15 in full, or, if the person wishes to contest either the amount of
16 the penalty or the fact of the violation, remit the assessed amount
17 to the board for deposit in an escrow account. If, after judicial
18 review, it is determined that no violation occurred or that the
19 amount of the penalty should be reduced, the board shall remit the
20 appropriate amount to the person charged with the violation not
21 later than the 30th day after the day on which the judicial
22 determination becomes final.

23 (f) Failure to remit the amount of the civil penalty to the
24 board within the time provided by Subsection (e) of this section
25 results in a waiver of all legal rights to contest the violation or
26 the amount of the penalty.

27 (g) A civil penalty owed under this section may be recovered

1 in a civil action brought by the attorney general at the request of
2 the board.

3 (h) A penalty collected under this section shall be
4 deposited in the state treasury to the credit of a special fund
5 known as the polygraph examiners fund. Money in the fund may be
6 appropriated only to support the enforcement and investigation
7 programs of the board.

8 SECTION 2. This Act takes effect September 1, 1985, and
9 applies to an administrative penalty imposed on a violation
10 occurring on or after that date.

11 SECTION 3. The importance of this legislation and the
12 crowded condition of the calendars in both houses create an
13 emergency and an imperative public necessity that the
14 constitutional rule requiring bills to be read on three several
15 days in each house be suspended, and this rule is hereby suspended.

1 By: Sarpalius S.B. No. 512
2 (In the Senate - Filed February 19, 1985; February 19, 1985,
3 read first time and referred to Committee on Jurisprudence;
4 May 8, 1985, reported adversely, with favorable Committee
5 Substitute; May 8, 1985, sent to printer.)

6 COMMITTEE SUBSTITUTE FOR S.B. No. 512

By: Mauzy

7 A BILL TO BE ENTITLED
8 AN ACT

9 relating to the imposition of certain administrative penalties
10 by the Polygraph Examiners Board for violations of the Polygraph
11 Examiners Act; amending the Polygraph Examiners Act (Article
12 4413(29cc), Vernon's Texas Civil Statutes), by adding Section
13 22A.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

15 SECTION 1. The Polygraph Examiners Act (Article 4413(29cc),
16 Vernon's Texas Civil Statutes) is amended by adding Section 22A to
17 read as follows:

18 "Section 22A. ADMINISTRATIVE PENALTY. (a) If the board
19 determines that a person regulated under this Act has violated this
20 Act or a rule adopted under this Act in a manner that constitutes a
21 ground for a license suspension under Section 19 of this Act, the
22 board may assess a civil penalty against that person in lieu of the
23 license suspension as provided by this section.

24 "(b) The board may assess the civil penalty in an amount not
25 to exceed \$5,000. In determining the amount of the penalty, the
26 board shall consider the seriousness of the violation.

27 "(c) If, after examination of a possible violation and the
28 facts relating to that possible violation, the board concludes that
29 a violation has occurred, the board shall issue a preliminary
30 report that states the facts on which the conclusion is based, the
31 fact that a civil penalty is to be imposed, and the amount to be
32 assessed. Not later than the 10th day after the day on which the
33 board issues the preliminary report, the board shall send a copy of
34 the report to the person charged with the violation, together with
35 a statement of the right of the person to a hearing relating to the
36 alleged violation and the amount of the penalty.

37 "(d) Not later than the 20th day after the day on which the
38 report is sent, the person charged either may make a written
39 request for a hearing or may remit the amount of the civil penalty
40 to the board. Failure either to request a hearing or to remit the
41 amount of the civil penalty within the time provided by this
42 subsection results in a waiver of a right to a hearing under this
43 Act. If the person charged requests a hearing, the hearing shall
44 be conducted in the manner provided by Section 22 of this Act. If
45 it is determined after the hearing that the person has committed
46 the alleged violation, the board shall give written notice to the
47 person of the findings established by the hearing and the amount of
48 the penalty and shall enter an order requiring the person to pay
49 the penalty.

50 "(e) Not later than the 30th day after the day on which the
51 notice is received, the person charged shall pay the civil penalty
52 in full or, if the person wishes to contest either the amount of
53 the penalty or the fact of the violation, forward the assessed
54 amount to the board for deposit in an escrow account. If, after
55 judicial review, it is determined that no violation occurred or
56 that the amount of the penalty should be reduced, the board shall
57 remit the appropriate amount to the person charged with the
58 violation not later than the 30th day after the day on which the
59 judicial determination becomes final.

60 "(f) Failure to remit the amount of the civil penalty to the
61 board within the time provided by Subsection (e) of this section
62 results in a waiver of all legal rights to contest the violation or
63 the amount of the penalty.

64 "(g) A civil penalty owed under this section may be
65 recovered in a civil action brought by the attorney general at the
66 request of the board.

67 "(h) A penalty collected under this section shall be
68 deposited in the State Treasury to the credit of the General

Revenue Fund."

SECTION 2. This Act takes effect September 1, 1985, and applies only to an administrative penalty imposed on a violation occurring on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

* * * * *

Austin, Texas
May 8, 1985

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Jurisprudence to which was referred S.B. No. 512, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Mauzy, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 29, 1985

Honorable Oscar H. Mauzy, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 512
By: Sarpalius

Sir:

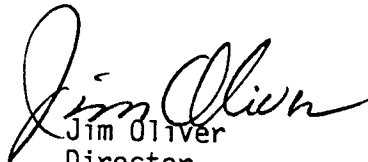
In response to your request for a Fiscal Note on Senate Bill No. 512 (relating to the imposition of certain administrative penalties by the State Board of Polygraph Examiners) this office has determined the following:

The probable revenue gain from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Revenue Gain to the General Revenue Fund</u>
1986	\$11,500
1987	12,000
1988	12,500
1989	13,000
1990	13,500

Similar annual revenue gains would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.


Jim Oliver
Director

Source: Polygraph Examiners Board;
LBB Staff: JO, JH, MS, BL

SN
rfe

By: Sarpalius

S.B. 512

Substitute the following for S.B. 512:

By: Munoz

C.S.S.B. 512

4413(29cc), Vernon's Texas Civil Statutes, by adding Section 22A.

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of certain administrative penalties by
the ~~Board of~~ ^{Board} Polygraph Examiners ^{for violations of the Polygraph}
~~Examiners Act~~; ^{amending the Polygraph Examiners Act Article}
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Polygraph Examiners Act (Article 4413(29cc),
Vernon's Texas Civil Statutes) is amended by adding Section 22A to
read as follows:

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determines that a person regulated under this Act has violated this
Act or a rule adopted under this Act in a manner that constitutes
a ground for a license suspension under Section 19 of this Act, the
board may assess a civil penalty against that person in lieu of the
license suspension as provided by this section.

(b) The board may assess the civil penalty in an amount not
to exceed \$5,000. In determining the amount of the penalty, the
board shall consider the seriousness of the violation.

(c) If, after examination of a possible violation and the
facts relating to that possible violation, the board concludes that
a violation has occurred, the board shall issue a preliminary
report that states the facts on which the conclusion is based, the
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the report to the person charged with the violation, together with

5/8/85
5/9/85

1 a statement of the right of the person to a hearing relating to the
2 alleged violation and the amount of the penalty.

3 "(d) Not later than the 20th day after the day on which the
4 report is sent, the person charged either may make a written
5 request for a hearing or may remit the amount of the civil penalty
6 to the board. Failure either to request a hearing or to remit the
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23 remit the appropriate amount to the person charged with the
24 violation not later than the 30th day after the day on which the
25 judicial determination becomes final. ^{2/3}

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27 board within the time provided by Subsection (e) of this section

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2 the amount of the penalty.

3 "(g) A civil penalty owed under this section may be recovered
4 in a civil action brought by the attorney general at the request of
5 the board.

6 "(h) A penalty collected under this section shall be
7 deposited in the state treasury to the credit of the general
8 revenue fund. " " " " "
9 " " " " "

10 SECTION 2. This Act takes effect September 1, 1985, and
11 applies only to an administrative penalty imposed on a violation
12 occurring on or after that date.

13 SECTION 3. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended.

May 9 1985 Engrossed
Patsy Spaw
Engrossing Clerk

By: Sarpalius

S.B. No. 512

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of certain administrative penalties by the Polygraph Examiners Board for violations of the Polygraph Examiners Act; amending the Polygraph Examiners Act (Article 4413(29cc), Vernon's Texas Civil Statutes), by adding Section 22A.

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 29, 1985

Honorable Oscar H. Mauzy, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 512
By: Sarpalius

Sir:

In response to your request for a Fiscal Note on Senate Bill No. 512 (relating to the imposition of certain administrative penalties by the State Board of Polygraph Examiners) this office has determined the following:

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No fiscal implication to units of local government is anticipated.


Jim Oliver
Director

Source: Polygraph Examiners Board;
LBB Staff: JO, JH, MS, BL

S. B. No. 512

By Scarpalino

AN ACT relating to the imposition of certain administrative penalties by the State Board of Polygraph Examiners.

2-19-85 Filed with the Secretary of the Senate

FEB 19 1985

Read, referred to Committee on JURISPRUDENCE

Reported favorably.

MAY 8 1985

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

MAY 9 1985

Senate and Constitutional Rules to permit consideration suspended by

unanimous consent.
yeas, _____ nays, _____

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

MAY 9 1985

Read second time and { ordered engrossed.
passed to third reading.

Caption ordered amended to conform to body of bill.

MAY 9 1985

Senate and Constitutional 3-Day Rules suspended by vote of 30 yeas, 1 nays to place bill on third reading and final passage.

MAY 9 1985

Read third time and passed by a viva-voce vote.

yeas, _____ nays, _____

OTHER ACTION:

Betty King
Secretary of the Senate

May 9, 1985

Engrossed

May 13, 1985

Sent to House

Dorothy Spaw
ENGROSSING CLERK

MAY 13 1985

Received from the Senate

MAY 21 1985

Read first time and referred to Committee on Law Enforcement

Reported favorably amended, sent to Printer at _____

Printed and Distributed _____

Sent to Committee on Calendars _____

Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of _____ yeas, _____ nays

_____ Present, not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas _____ nays _____ present not voting.

Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of _____ yeas _____ nays _____ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

Chief Clerk of the House